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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,630	03/30/2001	Amy L. Gosselin	67154	7129

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EXAMINER

BECKER, DREW E

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/822,630

Applicant(s)

GOSSELIN ET AL

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 17-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 1-16 in Paper No. 7 is acknowledged.

Drawings

2. The corrected or substitute drawings were received on April 14, 2003. These drawings changes are acceptable.

Oath/Declaration

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The declaration does not contain the statement that this application is a continuation-in part of 09/729,993 filed December 4, 2000.

Claim Objections

4. Claim 5 is objected to because of the following informalities: it recites "the baking shield stored at the bottom"; it should include "is" before "at". Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claims 1 and 9 recite "a frozen filling contained within the frozen self-rising bread crust". It is not clear whether the filling is applied onto the surface of the bread crust, or whether the filling is applied inside of the bread crust. In order to speed along prosecution, it will be assumed that the filling is applied to the bread crust surface.
8. Claim 1 and 9 recite "A one-dish frozen dinner product comprising: ... (6) a shipping carton containing the dinner product". It is not clear how the "dinner product" can include a "shipping carton" as a component; while simultaneously, the "shipping carton" also contains the whole "dinner product", including the "shipping carton".
9. Claims 2 and 10 recite "one or more components ... consisting of pasta, meat, cheese, and vegetables in a sauce and wherein the sauce covers the one or more components". It is not clear whether the "sauce" is included in the "one or more components".
10. Claim 3-4 and 11-12 recite the limitation "the sauce". There is insufficient antecedent basis for this limitation in the claim.

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11. Claims 7-8 and 15-16 recite "100 lbs flour" or "100 lbs percent flour". It is not clear whether 100 lbs is being claimed, or 100% which would be in keeping with the Baker's percentage.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-4 and 9-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Woodward et al [Pat. No. 6,054,697] in view of Kordic et al [Pat. No. 5,789,009], Peleg [Pat. No. 5,247,149], and Friberg [The Professional Pastry Chef].

Woodward et al teach food product comprising a frustoconical baking apparatus with a bottom, an open top, slanted sides, and a rim (Figure 22, #300), a detachable baking shield which attaches to the pan rim and which has an upper wall with a central opening (Figure 22, #550 & 560), and a pizza conformed to the pan (Figure 22, #650).

Woodward et al do not recite a frozen self-rising bread ring, the pizza being frozen and self-rising, a frozen filling on the pizza comprising cheese and meat, a shipping carton, and an oil coating on the pizza. Kordic et al teach a pizza with a bread ring on a pizza (Figure 7, #40 & 33; Figure 1, #14b) and toppings such meat, cheese, and vegetables (column 2, line 26). Peleg teaches a frozen pizza product comprising dough, sauce, and toppings (Figure 2, #12, 14, 16, 18), a baking shield (Figure 9, #102), and a shipping

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carton (Figure 2, #44). Friberg teaches a self-rising pizza comprising yeast and a coating of oil (page 176). It would have been obvious to one of ordinary skill in the art to incorporate the bread ring and toppings of Kordic et al into the invention of Woodward et al since both are directed to pizza products, since Woodward et al already included a baking shield which would have prevented the bread ring and toppings from becoming burnt (Figure 22, #550), since toppings were conventionally used on pizza as shown by Kordic et al, and since Kordic et al teach that the bread rings would have provided a source of crust for every piece of pizza, even pieces which are not located on the periphery of the pizza, and that the bread ring provided better texture, flavor, and aesthetic appeal (column 1, lines 39-49). It would have been obvious to one of ordinary skill in the art to incorporate the shipping carton and frozen pizza of Peleg into the invention of Woodward et al since both are directed to pizza products, since Woodward et al would have required a package in order to transport it to the consumer, since pizza was commonly purchased in a frozen state in order to better preserve it, and since the shipping carton of Peleg would have helped prevent any damage to the product of Woodward et al during transport. It would have been obvious to one of ordinary skill in the art to incorporate the self-rising dough and oil coating of Friberg into the invention of Woodward et al since both are directed to pizza products, since Woodward et al simply does not mention the pizza ingredients, and since yeast and oil coatings were conventionally used in pizza dough as shown by Friberg (page 176). Phrases such as "after cooking, portions of the bread ring can be removed and consumed" are merely

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preferred methods of using the claimed product and as such are not given patentable weight.

14. Claims 5-6 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodward et al, in view of Kordic et al, Peleg, and Friberg, as applied above, and further in view of Ragland [Pat. No. 5,845,805].

Woodward et al, Kordic et al, Peleg, and Friberg teach the above mentioned components. Woodward et al, Kordic et al, Peleg, and Friberg do not teach the baking shield being stored at the bottom of the baking apparatus and making them of foil. Ragland teaches a pizza product comprising a pan (Figure 1, #2), a baking shield at its bottom (Figure 1, #1), and making them of foil (column 5, lines 15-40). It would have been obvious to one of ordinary skill in the art to incorporate the baking shield placement and foil of Ragland into the invention of Woodward et al, in view of Kordic et al, Peleg, and Friberg, since all are directed to pizza products, since Woodward et al already teach the use of aluminum (column 9, line 30), since placing the baking shield below the pan would have prevented overheating of the pan bottom from the direct heat of the bottom mounted heat source found in most conventional baking ovens, and since aluminum baking utensils, such as pans and shields, were conventionally made from foil due to its light weight and easy disposal.

15. Claims 7-8 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodward et al, in view of Kordic et al, Peleg, and Friberg, as applied above, and further in view of Wada et al [Pat. No. 5,595,773]

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Woodward et al, Kordic et al, Peleg, and Friberg teach the above mentioned components. Friberg also teaches ingredients such as yeast, water, sugar, olive oil, salt, honey, and flour (page 176). Woodward et al, Kordic et al, Peleg, and Friberg do not teach a dough comprising (in Baker's percentages): 100 lb flour, 6-10% sugar, 0.25-0.75% emulsifier, 2-6% leavening agent such as yeast, 4-8% wheat gluten, 6-10% oil or fat, 100-200 ppm oxidant such as ascorbic acid, 1-5% spices and flavorants, and 50-70% water. Wada et al teach a frozen pizza dough product comprising appropriate amounts of flour, water, salt, yeast, sugar, fats and oils, emulsifiers, spices, vital gluten, and ascorbic acid (column 3, lines 22-44; column 7, line 7). It would have been obvious to one of ordinary skill in the art to incorporate the dough ingredients of Wada et al into the invention of Woodward et al, in view of Kordic et al, Peleg, and Friberg, since all are directed to pizza products, since Woodward et al simply does not mention the types of ingredients used, since Friberg already included ingredients such as yeast, water, sugar, olive oil, salt, honey, and flour (page 176), and since these ingredients were commonly used in pizza dough as shown by Wada et al (column 3, lines 22-44; column 7, line 7). It would have been obvious to one of ordinary skill in the art to vary the amounts of ingredients taught by Wada et al since Wada et al taught using the appropriate amount of these ingredients (column 3, line 24), since this would have been done during the course of normal experimentation and optimization, and since different amounts of ingredients would have provided different product properties which would have been appealing to the consumer.


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16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kirkpatrick [Pat. No. 3,951,053], JP 03254627A, Willan [Perfect Pies & Tarts], Cole et al [Pat. No. 6,479,087] teach pizza and pie products.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.


Drew E Becker
Examiner
Art Unit 1761

May 2, 2003